

HOUSE BILL REPORT

HB 1246

As Reported by House Committee On:
Human Services

Title: An act relating to residential services and support enforcement standards.

Brief Description: Concerning residential services and support enforcement standards.

Sponsors: Representatives McCoy, Darneille, Dickerson, Ahern, Kenney and Moeller; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Human Services: 1/25/07, 1/30/07 [DPS].

Brief Summary of Substitute Bill

- Extends the ability of the Department of Social and Health Services to enforce certification standards for all providers of residential services and support to individuals with developmental disabilities, rather than only to providers in the Community Protection Program.

HOUSE COMMITTEE ON HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Dickerson, Chair; Roberts, Vice Chair; Ahern, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Bailey, Darneille, McCoy and O'Brien.

Staff: Sonja Hallum (786-7092).

Background:

The Department of Social and Health Services (Department) is authorized to contract for a variety of services for individuals with developmental disabilities, including residential services and support. Residential services and support includes a wide array of supported living services, many of which may be provided in the person's own home.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Department also contracts for residential services and supports provided to persons in the Community Protection Program. The Community Protection Program is a program for persons over the age of 18 with developmental disabilities who have demonstrated violent or sexually violent behaviors. The Department contracts with firms or agencies to provide support to the Community Protection Program participants. The contracting agencies assist the participants in finding housing, provide supervision, and support the participants. The program existed through budget proviso until 2006 when it was codified.

Providers of supported living services, including services to persons in the Community Protection Program, must be certified by the Department. Certification differs from licensing, primarily because the certification process assesses the ability and appropriateness of the agency and its employees to provide particular services, whereas licensure focuses on a specific facility that provides services at a particular location.

For licensed facilities, the Department has comprehensive compliance enforcement authority. Prior to 2006, the Department, however, did not have the same authority to enforce certification standards. In 2006, the Legislature granted the Department the authority to enforce certification standards against providers of residential services and support in the legislation that codified the Community Protection Program. This authority to enforce the certification standards has been interpreted to be restricted to enforcement against providers only within the Community Protection Program.

Summary of Substitute Bill:

The intent section clarifies that the ability of the Department to enforce certification standards applies to all providers of residential services and support.

The Department is authorized to take one or more actions when a certified provider fails to comply with certification requirements, the certification process, or with the mandatory reporting requirements under the vulnerable adult statute. The Department also can take action if a certified provider interferes with an inspection or knowingly provides false information during the certification process or during an investigation.

The following are actions the Department is permitted to take against a noncompliant provider:

- (1) decertify or refuse to renew the certification;
- (2) impose conditions on a provider's certification status;
- (3) suspend referrals to the providers; or
- (4) require the provider to implement a corrective action plan. If the provider fails to implement the plan of correction or fails to cooperate with the subsequent monitoring, the Department may impose civil penalties of up to \$100 per violation.

When determining what enforcement action to take, the Department must select action commensurate with the seriousness of the threat or harm to the persons being served. For

violations that remain uncorrected or are repeated or pervasive, the Department may take actions that are more severe.

The Department is directed to adopt rules governing criteria to be used for the selection and implementation of enforcement actions. The Administrative Procedures Act applies to the enforcement actions authorized. The effective date of enforcement actions will not be suspended or delayed pending an administrative hearing or review except for reviews or hearing on civil fines.

Substitute Bill Compared to Original Bill:

The amount of the civil penalty that the Department may impose on a noncompliant provider is reduced from \$150 to \$100.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This does not change any language in current statute. It only clarifies that it applies to all supported living programs. With the passage of the bill last year, the Department was able to impose sanctions. There has not yet been a sanction. This bill provides protections to people who need help and penalties to providers who do not comply with specific requirements.

(Concerns) We are concerned with the amount of the fine. Most providers are non-profit and would like the fine reduced to \$100.

(Opposed) None.

Persons Testifying: (In support) Representative McCoy, prime sponsor; and Joyce Stockwell, Department of Social and Health Services.

(Concerns) CaraLee Cook, Community Residential Services Association.

Persons Signed In To Testify But Not Testifying: None.